

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL MEMORANDUM**

**SB 1087 – HB 1290**

April 21, 2017

**SUMMARY OF ORIGINAL BILL:** Authorizes certain municipalities to create municipal energy authorities. Expands the types of utility service which can be provided by a municipal energy authority.

**FISCAL IMPACT OF ORIGINAL BILL:**

Other Fiscal Impact - Any permissive increase in local government expenditures will be met with an equal and corresponding permissive increase in local government revenue; therefore, the net impact to local government is considered to be not significant.

**IMPACT TO COMMERCE OF ORIGINAL BILL:**

Other Fiscal Impact – Due to multiple unknown factors, a precise impact to commerce and jobs in Tennessee cannot reasonably be determined.

**SUMMARY OF AMENDMENTS (006245, 006810):** Amendment 006245 deletes and rewrites the bill such that the only substantive change removes gas service from the list of utility services a municipal energy authority may provide to customers.

Amendment 006810 adds language to the bill as amended by amendment 006245 to delegate all powers, authority, duties, obligations, requirements, and oversight that are conferred and imposed upon the municipality's water and wastewater system to the authority's water and wastewater systems.

**FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:**

**Unchanged from the original fiscal note.**

Assumptions for the bill as amended:

- Pursuant to Tenn. Code Ann. § 7-36-102, only the home rule municipalities of Clinton, Etowah, Johnson City, Lenoir City, Mt. Juliet, Oak Ridge, Sevierville, Sweetwater, and

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Whitwell who operate a municipal electric system are authorized to establish a municipal energy authority.

- The proposed language would expand authorization to all municipalities who operate a municipal electric system, except those located in Davidson, Hamilton, Knox, and Shelby counties.
- Under current law, pursuant to Tenn. Code Ann. § 7-36-105(c), municipal energy authorities are established for the purpose of planning, acquiring, constructing, improving, furnishing, equipping, financing, owning, operating, and maintaining electric and telecommunications systems within or outside the corporate limits of the associated municipality and within or outside of the state.
- The proposed language would expand the utility services the municipal energy authority could provide to include water, and wastewater services.
- Pursuant to Tenn. Code Ann. § 7-36-103, the formation of a municipal energy authority is accomplished through adoption of a resolution by two-thirds majority of the legislative body of the municipality and by filing a certificate of incorporation with the Secretary of State.
- According to the Department of State, to date, only one such certificate of incorporation has been filed.
- No fee is assessed by the Department of State for filing this certificate of incorporation.
- Any vote required of a municipal governing body to establish a municipal energy authority can be accomplished at a regularly-scheduled meeting.
- Municipalities electing to form a municipal energy authority are required to establish a board of directors and appoint a chief executive officer, pursuant to Tenn. Code Ann. § 7-36-109.
- Pursuant to Tenn. Code Ann. § 7-36-119, the authority shall not be operated for gain or profit but shall prescribe and collect rates, fees, or charges for services and be self-supporting.
- Due to multiple unknown factors such as how many municipalities will elect to establish a municipal energy authority, the extent of the board of directors which is created, the extent of any compensation or reimbursement paid to such directors, the extent of compensation provided to the chief executive officer of the authority, the extent of any utility services each newly-established authority will elect to provide, the extent of costs associated with infrastructure installed to accommodate utility services provided, any increase to local expenditures cannot reasonably be determined; however, because the authority must be self-supporting by establishing customer rates which cover costs and debts of the energy authority, any permissive increase in local government expenditures will be met with an equal and corresponding permissive increase in local government revenue for a net impact considered to be not significant.

## **IMPACT TO COMMERCE WITH PROPOSED AMENDMENTS:**

**Unchanged from the original fiscal note.**

Assumptions for the bill as amended:

- Municipal electric systems creating municipal energy authorities with the ability to provide telecommunications, water, and wastewater utility services, that were unable to provide such services without the provisions of this bill, will result in a change to business revenues for private companies currently providing such services within the service area of the energy authority; however it is unknown how many municipal energy authorities will be created and what services will ultimately be available to customers, the extent of customers with a new option in any such utility service, and the extent of any impact to rates charged by private businesses for such services as a direct result of the competition provided by municipal energy authorities.
- Due to multiple unknown factors, a precise impact to commerce and jobs in Tennessee cannot reasonably be determined.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

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